IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4310 OF 2004

WITH
CRIMINAL APPLICATION NO. 4403 OF 2004
WITH
CRIMINAL APPLICATION NO. 4481 OF 2004

Hiraachand Raichand Pagaria & Anr. Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri Shirish Gupte, Sr. Counsel with Subodh Desai for Applicants.
Shri A.S. Gadkari, APP for Respondent- State.
Shri A.P. Mundargi for the Bank.
Shri A.K. Doshi for intervenor, in-person.

CORAM : A.M.KHANWILKAR, J.
DATED : 02.11.2004

PC :-

. Heard the learned counsel for the parties. Perused the record. 2. During the pendecy of this application, the Applicants appeared before the investigating officer and have co-operated for the purpose of investigation. This position is accepted by the learned APP, on instruction of the API - P.R.Damdade, who is personally present in the court. The learned APP also states that all information and documents have been furnished by the applicant as demanded as of now. He submits that if the applicants were to extend co-operation for further investigation,

their presence for custodial interrogation will not be necessary. Besides out of the total amount, which was payable by the applicants has been deposited by them in the Thane Janata Sahakari Bank as per the instalments indicated by the M/s. Global Trust Bank Ltd.. Even for this reasons, custodial interrogation may not be necessary. This application is however, resisted by one Mr. Ashok Kumar Doshi, who has filed application for intervention being Criminal Application No. 4481/2004. He claims to be member of Thane Janata Sahakari Bank. However, according to Shri Mundargi, who appears for the said Bank, states that the said Applicant is an expelled member from the Society. Besides, the reasons given by Mr. Mundargi for the Bank, in my opinion, it is not open to the applicant Mr. Doshi to resist the application for grant of anticipatory bail to the present applicants in as much as the complaint in the present case, has been registered at the instance of the Global Trust Bank with which said Ashok Kumar Doshi has no concern. In the circumstances, the application filed by Ashok Kumar Doshi deserves to be dismissed. To over come this position, Mr. Doshi relies on the decision in the case of Mulraj Jayantilal Sheth vs. Governor, Reserve Bank of India reported in AIR 2003 BOMBAY

-318, submits that it is not open to the Thane Janata Sahakari Bank to acceed to the request of the applicants. That aspect, however, is not in issue to the present matter. The grievance of the said applicant can be redressed before the appropriate forum and he should take recourse to that remedy as may be permissible in law. I am not required to go into the merits of the said grievance of the said applicant. Suffice it to observe for the reasons already indicated above, the applicants herein deserve to be enlarged on anticipatory bail on the following conditions :-

a) The Applicants are enlarged on bail in connection with C.R.No. 39/2004, registered with the Vile Parle Police Station, Mumbai on executing personal bond in the sum of Rs. 1,00,000/- (Rs. One lakh only) each with two local sureties in the like amount.

b) The Applicants shall abide by all the conditions as provided under section 438 (2) of the Code as applicable to the State of Maharashtra.

c) In addition, the applicants will abide by the undertakings given before this court and in case there is any single default committed in payment that will be a ground for cancellation of bail without going into the merits of the reasons in that regard, if any.

3. Criminal Application No. 4310/2004 allowed in the above terms.

4. Criminal Application No. 4481/2004 filed by Shir Ashok Kumar Doshi is rejected.

5. The consent terms executed between the Thane Janata Sahakari Bank Ltd., and the Applicants herein are taken on record and the undertaking given in the consent terms by the applicants is accepted.

6. In view of the above order, no further directions are required to be passed in criminal application No. 4403/2004 and the same is also disposed of.

7. Order accordingly.

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